

**CLOSED**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**United States of America**

**v.**

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed on or After November 1, 1987)

**Francisco Rivera-Pelayo**

**No. 08-16004-001M-SD**

Citizen of Mexico

**Matthew Johnson (AFPD)**  
Attorney for Defendant

USM#: 75936-208

DOB: 1954

ICE#: A19 947 249

**THE DEFENDANT ENTERED A PLEA OF** guilty on 7/28/2008 to Count TWO of the Complaint.

**ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S):** violating Title 8, USC § 1325, Illegal Entry, a Petty offense, as charged in Count TWO of the Complaint.

**IT IS THE JUDGMENT OF THE COURT THAT** the defendant is hereby committed to the custody of the Bureau of Prisons for a term of FORTY-FIVE (45) DAYS on Count TWO, with credit for time served.

**IT IS FURTHER ORDERED** that all remaining counts are dismissed on motion of the United States.

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay to the Clerk the following total criminal monetary penalties:

**SPECIAL ASSESSMENT:** \$Remitted

**FINE:** \$

**RESTITUTION:** \$

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than \$25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, 880 Front Street, San Diego, California 92101. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). The total special assessment of \$Remitted shall be paid pursuant to Title 18, United States Code, Section 3013 for Count TWO of the Complaint.

Any unpaid balance shall become a condition of supervision and shall be paid within prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

**IT IS FURTHER ORDERED** that the Clerk of the Court deliver two certified copies of this judgment to the United States Marshal of this district.

The Court orders commitment to the custody of the Bureau of Prisons.  
The defendant is remanded to the custody of the United States Marshal.

**08-16004-001M-SD**

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USA vs. Francisco Rivera-Pelayo

Date of Imposition of Sentence: **Monday, July 28, 2008**

Date 7/28/2008

JAY R. IRWIN, United States Magistrate Judge

**RETURN**

I have executed this Judgment as follows: \_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_, the institution designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

United States Marshal  
08-16004-001M-SD -

By: \_\_\_\_\_  
Deputy Marshal

DATE: 7/28/2008 CASE NUMBER: 08-16004-001M-SD

**PLEA/SENTENCING MINUTES**

USA vs. Francisco Rivera-Pelayo

U.S. MAGISTRATE JUDGE: JAY R. IRWIN Judge #: 70BK

U.S. Attorney \_\_\_\_\_ INTERPRETER REQ'D Ricardo Gonzalez  
LANGUAGE: Spanish

Attorney for Defendant Matthew Johnson (AFPD)

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☐ RELEASED ☒ CUSTODY

DOA 7/26/08 ☒ Complaint Filed ☒ Appointment of counsel hearing held  
☐ Financial Afdvt taken ☒ No Financial Afdvt taken ☐ Financial Afdvt sealed  
☒ Initial Appearance

**DETENTION HEARING:** ☐ Held ☐ Cont'd ☐ Reset ☐ UA  
Set for: before:

☐ Defendant ordered temporarily detained in the custody of the United States Marshal  
☐ Defendant ordered released (see order setting cond of rel) ☐ Bail set at \$ \_\_\_\_\_  
☐ Defendant continued detained pending trial ☐ Flight Risk ☐ Danger

**PLEA HEARING:** ☒ Held ☐ Cont'd ☐ Reset  
Set for: before:

☐ Consent to be tried by a Magistrate Judge signed ☐ Class A Misd ☐ Class B Misd ☐ Class C Misd  
☐ Consent of Defendant ☐ Information filed \_\_\_\_\_ ☐ Complaint filed \_\_\_\_\_  
☒ Defendant sworn and examined by the Court ☒ Plea of Guilty ☐ Not Guilty ☒ Entered to Counts TWO  
☐ Defendant states true name to be \_\_\_\_\_. Further proceedings ORDERED in defendant's true name.  
☒ Plea of Guilty entered as to Ct(s) TWO of the ☐ Information ☐ Indictment ☒ Complaint  
☒ Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.  
☐ Plea agreement: ☐ Lodged ☐ Filed ☐ Sealed  
☐ Court does not accept defendant's plea of guilty because \_\_\_\_\_  
☐ PSI ORDERED ☐ EXPEDITED ☒ PSI waived ☐ Time waived for passage of sentence  
☐ Continued for sentence to \_\_\_\_ before \_\_\_\_\_  
☒ To be dismissed upon entry of the judgment, Ct(s) ONE  
☒ ORDER vacate trial date/motion hearing/mtns moot  
☐ ORDER defendant remain released pending sentence ☒ remanded to USM

**SENTENCING:**

☒ Defendant committed to Bureau of Prisons for a period of 45 DAYS ☐ Probation/Supervised Release for \_\_\_\_\_  
☒ Special Assessment \$ REMITTED ☐ Fine \$ \_\_\_\_\_ ☐ Restitution \$ \_\_\_\_\_

Other: \_\_\_\_\_

RECORDED: CS  
BY: Angela J. Tuohy, Deputy Clerk

1/24  
**United States District Court**

**SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA

V.

Francisco RIVERA-Pelayo

Citizen of Mexico

YOB: 1954

019947249

Illegal Alien

**CRIMINAL COMPLAINT**

CASE NUMBER: 08-16004M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

**COUNT I**

That on or about July 25, 2008, within the Southern District of California, Defendant Francisco RIVERA-Pelayo, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers and elude examination or inspection by Immigration Officers; in violation of Title 8, United States Code, Section 1325, in that the Defendant was previously convicted for violation of Title 8, United States Code, Section 1325, on May 19, 2008 (Felony).

**COUNT II**

That on or about July 25, 2008, within the Southern District of California, Defendant Francisco RIVERA-Pelayo, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers; in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof.

☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

Signature of Complainant

Joseluis Reynoso

Senior Patrol Agent

July 28, 2008

at

City and State

Yuma, Arizona

Jay R. Irwin, U.S. Magistrate

Name & Title of Judicial Officer

Signature of Judicial Officer

## STATEMENT OF FACTUAL BASIS

Defendant: Francisco RIVERA-Pelayo

Dependents: None

**IMMIGRATION HISTORY:** The Defendant was previously convicted of illegal entry on May 19, 2008. The Defendant has been apprehended three times by the U.S. Border Patrol.

**CRIMINAL HISTORY:**

<u>DATE/LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
05/19/08 Yuma, Arizona	8 USC 1325 Illegal Entry	20 Days Jail
05/16/72 El Paso, Texas	8 USC 1325 Illegal Entry	5 months and 29 days
01/08/81 Tucson, Arizona	Charge: Burglary	None listed

**Narrative:** The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Andrade, California.

The Defendant was questioned as to his citizenship and immigration status. Agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant was convicted for 8 USC 1325 Illegal entry on May, 19, 2008, and received a sentenced of (20) twenty days.

The Defendant last entered the United States illegally without inspection near Andrade, California on July 25, 2008.

**Charges:** 8 USC§1325  
8 USC§1325

(Felony)  
(Misdemeanor)

Sworn to before me and subscribed in my presence,

July 28, 2008

Date

Signature of Complainant

Signature of Judicial Officer

**Probable Cause Statement**

I, Senior Patrol Agent Joseluis Reynoso, declare under penalty of perjury, the following is true and correct:

**STATEMENT OF FACTUAL BASIS**

Defendant: Francisco RIVERA-Pelayo

Dependents: None

**IMMIGRATION HISTORY:** The Defendant was previously convicted of illegal entry on May 19, 2008. The Defendant has been apprehended three times by the U.S Border Patrol.

**CRIMINAL HISTORY:**

<b><u>DATE/LOCATION</u></b>	<b><u>OFFENSE</u></b>	<b><u>DISPOSITION</u></b>
05/19/08 Yuma, AZ	8 USC 1325 Illegal Entry	20 Days Jail
05/16/72 El Paso, TX	8 USC 1325 Illegal Entry	5 Months and 29 Days
01/08/81 Tucson, AZ	Burglary-F	None Listed

Narrative: The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Andrade, California.

The Defendant was questioned as to his citizenship and immigration status. Agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant last entered the United States illegally without inspection near Andrade, California on July 25, 2008.

Executed on July 27, 2008 Time: 8:03 AM

Signed: [Signature] Senior Patrol Agent

**Finding of Probable Cause**

On the basis of the facts presented in the foregoing Probable Cause Statement, consisting of one page(s), I find probable cause to believe that the defendant(s) named therein committed the offense on July 25, 2008 in violation of Title 8, United States Code, Section 1325.

Finding made on: Date July 27, 2008 Time 10:55 am

Signed: [Signature] United States Magistrate Judge